is worked by the accomplishment of the purpose for which it was created. MECHEM, PART., § 234, citing: *Bohrer* v. *Drake,* 33 Minn. 408, 23 N. W. 840; *Bank* v. *Page,* 98 Ill. 109. In many respects mining partnerships are dissimilar to trading firms. A mining partnership exists where two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom, actually engage in working the same. *Skillman* v. *Lachman,* 23 Cal. 198, 83 Am. Dec. 96; *Hartney* v. *Gosling,* 10 Wyo. 346, 68 Pac. 1118, 98 Am. St. Rep. 1005; *Childers* v. *Neely,* 47 W. Va. 70, 34 S. E. 828, 49 L. R. A. 468, 81 Am. St. Rep. 777; CAL. CIV. CODE, § 2511; MONT. CIV. CODE, § 2511. The statutes are in general merely declaratory of what is the law in the absence of legislation. *Congdon* v. *Olds,* 18 Mont. 487, 46 Pac. 261. There need be no express or implied agreement. *Duryea* v. *Burt,* 28 Cal. 569. *Contra*: *Dunham* v. *Loverock,* 158 Pa. St. 197, 27 Atl. 990, 38 Am. St. Rep. 838. But in the case of a trading partnership, a contract either express or implied is essential, and the law will not create the partnership or arbitrarily presume its existence. *Phillips* v. *Phillips,* 49 Ill. 437; *Re Gibbs' Estate,* 157 Pa. St. 59, 27 Atl. 383, 22 L. R. A. 276; *Wilson* v. *Cobb,* 28 N. J. Eq. 177. There is no *delectus personae* in a mining partnership. *Taylor* v. *Castle,* 42 Cal. 367. One of its members may convey his interest in the mine and business to a stranger without working a dissolution of the partnership. *Fereday* v. *Wightwick,* 1 Russ. & M. 49. Hence the limited powers and liabilities of the members of a mining firm. *Jones* v. *Clark,* 42 Cal. 180; *Pease* v. *Cole,* 53 Conn. 53, 22 Atl. 681. The death of a member does not work a dissolution. *Charles* v. *Eshleman,* 5 Colo. 114. The decision of the members owning a majority of the shares or interests, and not that of the majority of the persons, controls. *Dougherty* v. *Creary,* 30 Cal. 291, 293. The statute of frauds does not apply to a mining partnership. *Mortiz* v. *Lavelle,* 77 Cal. 10, 18 Pac. 803, 11 Am. St. Rep. 229. In deciding the principal case the court say that the evidence fails to disclose an intention to permanently abandon the working of the mine. Where the existence of a partnership at one time is proved, its existence will be presumed until its dissolution is shown. *Pursley* v. *Ramsey,* 31 Ga. 409; *Marks* v. *Sigler,* 3 Ohio St. 358. From this decision it would seem that although an intention is not necessary to create a mining partnership, yet an intention is indispensable to dissolve it. The case is of further interest as it applies to mining partnerships the ordinary rule respecting the dissolution of trading firms.

SALES—INTERPRETATION OF MICHIGAN BULK SALES ACT.—Laws of Michigan 1905, ch. 223, known as the Bulk Sales Act, provides that a sale in bulk of any part or the whole of a stock of merchandise, or merchandise and fixtures, otherwise than in the ordinary course of business, shall be void as against the seller's creditors, unless the seller and the purchaser comply with certain requirements as to an inventory of the goods sold and as to notice to the seller's creditors. Defendant purchased from X a funeral car, a casket wagon, some embalming tools, and "all caskets, steel vaults, robes and casket hardware" belonging to X and used in his undertaking business. No attempt was made to comply with the requirements of the statute, and plaintiff, a

creditor of X, sued to have the sale set aside as void under the statute. *Held,* that though none of the property conveyed came within the meaning of the term "fixtures," as used in the act, still the caskets, steel vaults, robes and casket hardware comprised "merchandise," within the meaning of the act, and for that reason the sale of the "merchandise" was void as against plaintiff, a creditor of Howell's, inasmuch as plaintiff received no notice from defendant. *People's Savings Bank* v. *Van Allsburg* (Mich. 1911) 131 N. W. 101.

Thirty-seven states, other than Michigan, have adopted Bulk Sales Acts, the statutes varying to some extent, but the general purport being that a sale by a dealer of his merchandise in bulk is presumed to be fraudulent unless certain formalities, either of record or of notice to creditors, or both, be observed. The constitutionality of the Michigan statute cannot be questioned. *Spurr* v. *Travis,* 145 Mich. 721, 108 N. W. 1090. Just what is meant by the terms "fixtures" and "merchandise," as used in the act, was first fully decided in the principal case. As to the latter term, WEBSTER'S definition was accepted, the court following the path trodden by courts in sister states in their interpretation of the same term, as it appears in the statute of frauds, by saying "merchandise is an object of commerce; whatever is usually bought and sold in trade or market by merchants. *Hein* v. *O'Connor* (Tex. Civ. App.) 15 S. W. 414; *Kent* v. *Liverpool & London Insurance Co.,* 26 Ind. 294, 89 Am. Dec. 463; *Commonwealth* v. *Keller,* 9 Pa. Co. Ct. R. 253; *In re San Gabriel Sanatorium Co.,* 95 Fed. 271. The intention of the parties, as shown by the use of the article, determines whether or not it is a fixture, said the court; a fixture being such a chattel as a merchant usually annexes to his premises to enable him to store, handle and display his goods and wares. In reaching this conclusion, the court follows previous decisions of Michigan, based upon the use of the same term in the statute of frauds. *Aldine Mfg. Co.* v. *Barnard,* 84 Mich. 632; *Wheeler* v. *Bedell,* 40 Mich. 693; *Lansing Iron & Engine Works* v. *Wilbur,* 111 Mich. 413. The decision in the principal case follows within a few months a case involving practically the same facts, in which the same conclusion was reached by the court, although the matter was not discussed as fully as in the principal case. *Bowen* v. *Quigley* (Mich. 1911) 130 N. W. 690.

TORTS—MOTIVE AS AFFECTING LIABILITY—INTERFERENCE WITH BUSINESS.—Plaintiff, a retail oil dealer, commenced to buy oil from others than defendant, a wholesaler. Defendant, with the purpose of ruining the plaintiff and not of establishing a competing retail concern, went into the retail oil business which it conducted until the failure of the plaintiff. In attempting to secure plaintiff's trade, defendant's agents maliciously removed from the windows of plaintiff's customers display cards left there by plaintiff to call him when oil was wanted. *Held,* defendant, having malicious motives, had passed the limits of legitimate competition. Also, although the display cards constituted merely invitations and not orders, that fact did not justify their removal by the defendant. *Dunshee* v. *Standard Oil Co.* (Iowa 1911) 132 N. W. 371.

As a general proposition, malicious motive will not make illegal an otherwise lawful act. 2 COOLEY, TORTS, Ed. 3, p. 1505. At common law, under